

2254	1983
FILING FEE PAID	
Yes	No <input checked="" type="checkbox"/>
HFP MOTION FILED	
Yes	No <input checked="" type="checkbox"/>
COPIES SENT TO	
Court <input checked="" type="checkbox"/>	ProSe

FILED

2007 DEC 27 PM 4:04

CLERK US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA MC-275

Name Andre BRAZZIL  
CIM-MSF, SD-1104  
 Address P.O. Box 500  
CHINO, CALIFORNIA 91708-0500

BY Rm DEPUTYCDC or ID Number F39583

US. FEDERAL Court of The STATE CALIFORNIA  
IN AND FOR CITY OF SAN DIEGO  
 (Court)

<u>ANDRE BRAZZIL</u>	
Petitioner	vs.
<u>PEOPLE OF THE STATE OF CALIFORNIA</u>	
Respondent	<u>REAL PARTY IN INTEREST</u>

PETITION FOR WRIT OF HABEAS CORPUS  
 '07 CV 2421 BTM NLS

No. \_\_\_\_\_  
 (To be supplied by the Clerk of the Court)

## INSTRUCTIONS — READ CAREFULLY

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.
- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies of the petition and, if separately bound, one copy of any supporting documents.
- If you are filing this petition in the California Supreme Court, file the original and ten copies of the petition and, if separately bound, two copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

This petition concerns:

☒ A conviction

☐ Parole

☐ A sentence

☐ Credits

☐ Jail or prison conditions

☐ Prison discipline

☐ Other (specify): \_\_\_\_\_

1. Your name: ANDRE BRAZZIL
2. Where are you incarcerated? CALIFORNIA INSTITUTION FOR MEN AT CHINO
3. Why are you in custody? ☒ Criminal Conviction ☐ Civil Commitment

Answer subdivisions a. through i. to the best of your ability.

- a. State reasons for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

FELON IN POSSESSION OF FIREARM

- b. Penal or other code sections: PENAL CODE SECTION 17021 (a)(1)

- c. Name and location of sentencing or committing court: SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF IMPERIAL, EL CENTRO

- d. Case number: JCF 18572

- e. Date convicted or committed: SEPTEMBER 7, 2006

- f. Date sentenced: SEPTEMBER 7, 2006

- g. Length of sentence: 2 YEARS

- h. When do you expect to be released? AUGUST 31, 2007

- i. Were you represented by counsel in the trial court? ☒ Yes. ☐ No. If yes, state the attorney's name and address:

JAVIER GARIBAY

4. What was the LAST plea you entered? (check one)

☐ Not guilty ☒ Guilty ☐ Nolo Contendere ☐ Other: \_\_\_\_\_

5. If you pleaded not guilty, what kind of trial did you have? N/A

☐ Jury ☐ Judge without a jury ☐ Submitted on transcript ☐ Awaiting trial

## 6. GROUNDS FOR RELIEF

**Ground 1:** State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." (If you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)

The Trial Court Abused Its Discretion in Failing to Rule the Charged Offense, Possession of a Firearm by a Felon, a Misdemeanor, and Exceeded its Statutory Authority in Denying Petitioner Probation and Imposed Prison Because Petitioner's Alleged Status as Being a Felon Was Not  
(CONTINUE ON NEXT PAGE)

## a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. If necessary, attach additional pages. CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: who did exactly what to violate your rights at what time (when) or place (where). (If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)

On August 23, 2006, Petitioner was arrested for possession of a Firearm, A Revolver, a family's Ant. Que.

On August 25, 2006, a complaint was filed alleging that Petitioner committed a felony, namely: Possession of a Firearm by a Felon. See Exhibit A.

On September 7, 2006, Petitioner withdrew his not guilty plea and pled guilty to Count 1 to only having possessed a Firearm. He did not knowingly admit nor otherwise stipulate that he was a felon and personally addressed that alleged issue to the Court. See Exhibit B, which is attached hereto & incorporated by reference.

The Trial Court did not advise Petitioner of his right to a jury trial on the issue of him being previously convicted allegedly nor obtain his waiver of said right. He did not know this right. Had he known he would have gone to jury trial and the alleged status would not be proven true. No evidence of the alleged felon status was before the court. Petitioner was not a felon. Also Court did not advise him of his rights to confront witnesses or against self-incrimination. Nor did he waive those either.

SEE EXHIBITS C & D

## b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

In re Yurko (1974) 10 Cal.3d 857, 112 Cal.R.513, 519; In re Boatwright, 15 P.2d 755, 216 C.2d 77 (failed to prove fact of a previous conviction); People v Baird (1995) 12 Cal.4th 126, 48 Cal. Rptr.2d 65; Weeks Am. Const. art. I, § 28; People v Bouzard (1991) 53 Cal.3d 467, 279 Cal. Rptr.2d 844;

California v Cunningham (2007) U.S. —, 2007 Daily Journal DAR 1003, Jan. 23, 2007, at p. 15 (An admission of the charged offense, essential to a jury's determination of guilt, or admitted in defendant's guilty plea does not qualify as such a circumstance in aggravation.)

ORIGINAL

EXHIBIT "A"  
183

L.A. # F-06-04337  
GILBERT G. OTERO  
District Attorney  
Imperial County  
County Administration Center, 1<sup>st</sup> Floor  
940 West Main Street  
El Centro, CA 92243  
Telephone (760) 482-4331

Attorney for Plaintiff

FILED

AUG 25 2006

SUPERIOR COURT  
IMPERIAL COUNTY CA  
JOSE O. GUILLEN, CLERK  
BY [Signature] DEPUTY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF IMPERIAL

JAIL DEPARTMENT

THE PEOPLE OF THE STATE OF CALIFORNIA  
Plaintiff,

vs.

ANDRE LEWIS BRAZZIL,

Defendant(s)

No. JQ-18572

COMPLAINT  
(FELONY)

THE UNDERSIGNED, ON INFORMATION AND BELIEF, COMPLAINS AND SAYS, THAT WITHIN THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA, THE DEFENDANT(S) COMMITTED THE FOLLOWING CRIME(S) AS FOLLOWS:

COUNT 1

On or about the 23rd day of August, 2006, said defendant(s), ANDRE LEWIS BRAZZIL did commit a FELONY, namely: POSSESSION OF FIREARM BY A FELON - PRIOR(S), a violation of Section 12021(A)(1) of the Penal Code.

EXHIBIT "A"  
2 of 3

COURT #: CODE/STAT: CONV DATE: COUNTY: STATE: CRT TYPE:

CF-1528 PC459 3/20/96 IMPERIAL CA SUPERIOR

## COUNT 2

On or about the 23rd day of August, 2006, said defendant(s), **ANDRE LEWIS BRAZZIL** did commit a **FELONY**, namely: **UNLAWFUL FIREARM ACTIVITY**, a violation of Section 12021(C)(1) of the Penal Code of the State of California, in that said defendant(s): did willfully and unlawfully own, possess, purchase, receive, and have custody and control of a firearm, to wit, **HANDGUN**, the said defendant having been convicted within the immediate past 10 years of the following crimes: 242/243PC; 242/243PC; 245(A)/17B PC.

I declare under penalty of perjury that the foregoing is true and correct and executed on August 25, 2006 at El Centro, California.

  
EL CENTRO POLICE DEPARTMENT

## DISCOVERY REQUEST:

Pursuant to Penal Code Section 1054.5 (b), the People are hereby informally requesting that defendant's counsel provide discovery to the People as required by Penal Code Section 1054.3.

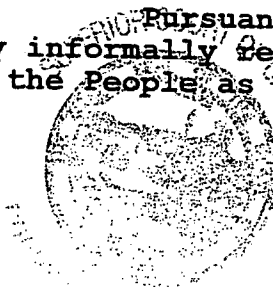

RECEIVED  
9/10/06

EXHIBIT "A"

3 of 3

GILBERT G. OTERO, DISTRICT ATTORNEY

By: \_\_\_\_\_

  
JOSEPH F. BEARD  
ASSISTANT DISTRICT ATTORNEY

SUBSCRIBED AND SWORN TO BEFORE ME ON \_\_\_\_\_, AT  
EL CENTRO, COUNTY OF IMPERIAL, CALIFORNIA, AND IT APPEARING TO THE  
COURT THAT PROBABLE CAUSE EXISTS FOR THE ISSUANCE OF A WARRANT OF  
ARREST FOR THE ABOVE-NAMED DEFENDANT(S), THE WARRANT IS SO ORDERED.

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

GGG:cr

## GROUND 1 CONTINUES

admitted nor stipulated to by petitioner nor was it otherwise proved by a jury where also the trial court erred in to expressly advise petitioner of his right to a jury trial on the issue of the alleged prior felony conviction status or to obtain a waiver of that right, thereby violating his right to a jury trial. This violated petitioner's rights to due process, 6th and 14th Amendments as guaranteed by U.S. Constitution and State Laws.

DECLARATION OF ANDRE BRAZZI

I, Andre BRAZZI, declare that:

On September 7, 2006, at the preliminary examination proceedings I was arguing with my appointed public defender, Mr. JAVIER GARIBAY. I was telling him that I was not a felon!

He replied, "Yes, you are!"

I argued back, "No! I'm not!"

He again replied, "Yes! You are!"

Finally, I gave up and turned to the trial judge, MATIAS R. CONTRERAS. Our dialogue as follows:

ME: "May I ask the Judge a question?"

Judge: "Ask your counselor."

GARIBAY: "Yes. Go ahead."

ME: "I went to jury duty last year and got a check for it. Then how can I be a felon?"

Judge: "Well, MR BRAZZI? Did you cash that check?"

ME: "Yes."

Judge: "Well, be it!"

When I was asked "how do [I] plea to 'possession of a firearm?', I withdrew my 'not guilty' plea and pled guilty. It was my understanding and belief that I was only admitting that I did have my family's treasured old gun in my possession. I never admitted as to having been previously convicted of a felon nor did I stipulate knowingly as to such.

The trial court never advised me of my right to a jury trial to resolve and determine the truth to the alleged issue of me having a felon status. Had I known of that



## DECLARATION OF ANDRE BRAZZIL CONTINUES

RIGHT TO A JURY TRIAL I WOULD HAVE DEMANDED IT AND GONE TO TRIAL AND IT, THE ALLEGED FELON STATUS, WOULD HAVE NOT BEEN PROVEN. NOR DID THE TRIAL COURT OBTAIN A WAIVER OF MY RIGHT TO A JURY TRIAL. I AM NOT A FELON.

I AM THE PETITIONER IN THIS ACTION. ALL FACTS ALLEGED IN THE ABOVE DECLARATION, NOT OTHERWISE SUPPORTED BY CITATIONS TO THE RECORD, EXHIBITS, OR OTHER DOCUMENTS, ARE TRUE OF MY OWN PERSONAL KNOWLEDGE.

I DECLARE UNDER THE PENALTY OF PERJURY THAT THE ABOVE IS TRUE AND CORRECT AND THAT THIS DECLARATION WAS EXECUTED ON 4/25/07, at CHINO, CALIFORNIA.


  
ANDRE BRAZZIL  
IN PRO PER

Exhibit C

SUPERIOR COURT OF CALIFORNIA COUNTY OF IMPERIAL	
<b>People</b> Plaintiff,  vs.  <b>Andres Lewis Brazzil</b> Defendant.  DOE: 10-21-89	Jud. Officer: <b>Matias R. Contreras</b> Clerk: <b>Carla Reyes</b> Bailliff: <b>Andrew Lowenthal</b> CSR: <b>Leslie Brock</b> Interpreter: <b>Not Required</b> Language: <b>---</b>  Plaintiff Counsel/DA: <b>Ben Salorio</b> Defendant Counsel/PD: <b>Javier Garibay</b>
Minutes: <b>Preliminary Examination</b>  Date: <b>September 7, 2006</b> Charges: <b>Count 1: PC12021(A)(1)</b>	Case No. <b>JCF18572</b> <b>Jail Court</b>

☒ Defendant present ☒ in custody ☒ with counsel.

**PLEA:**

- ☒ Defendant advised and understands the maximum penalties, consequences of his plea, the possible defenses  
☒ consequences of violation of probation ☒ possible deportation if not a citizen of the United States  
☒ Court inquired and finds there have been no threats or promises made.  
☒ Defendant advised by the court of the right to a trial, the right of silence, the right to confront and cross-examine witnesses and the right to subpoena witnesses in his behalf; defendant waived each of these rights.  
☒ Stipulation as to the factual basis for the plea.  
☒ The court finds a ☒ written ☐ oral knowing, intelligent, voluntary, understanding and explicit waiver of constitutional rights and a factual basis for the plea.  
☒ Nature of the charges stated by the Court.  
☒ Defendant withdraws NOT GUILTY plea and enters a plea of  
☒ **GUILTY to Count 1, Felon in Possession of Firearm in violation of penal code section 12021(a)(1), a felony.**  
☒ On motion of the District Attorney's Office Count 2 is dismissed.

Counsel requests his client be sentenced forthwith. No objection by the People.

**SENTENCING:**

- ☒ Probation ☒ denied. Defendant committed to ☒ State Prison ☒ Lower Term of 2 years.  
☒ Defendant given credit for 24 days served in the county jail (16+8).  
☒ Pursuant to PC 296 (a) (1), the defendant is required to provide two specimens of blood, a saliva sample, right thumb print, and a full palm print impression of each hand for law enforcement identification analysis.  
☒ Defendant shall pay a restitution fine in the sum of **\$ 200.00** pursuant to PC 1202.4(b).  
☒ Defendant shall pay a restitution fine in the sum of **\$ 200.00** pursuant to PC 1202.45.  
☒ **Matter is set for Receipt of Report on 10/19/06 at 9:00 a.m., County Jail Department.**  
  
☒ Defendant is remanded into custody.



*Calvin P. ...*

EXHIBIT "D"

**ABSTRACT OF JUDGMENT - PRISON COMMITMENT - DETERMINATE  
SINGLE, CONCURRENT, OR FULL-TERM CONSECUTIVE COUNT FORM**

*[Not to be used for multiple count convictions or for 1/3 consecutive sentences]*

CR-290.1

SUPERIOR COURT OF CALIFORNIA, COUNTY OF: **Imperial**PEOPLE OF THE STATE OF CALIFORNIA vs.  
DEFENDANT: **Andre Lewis Brazzil**DOB: **06-18-70**CASE NUMBER  
**JCF18572**

AKA:

CII#: **A08638491**BOOKING #: **865577**☐ NOT PRESENTCOMMITMENT TO STATE PRISON  
ABSTRACT OF JUDGMENT☐ AMENDED  
ABSTRACT

DATE OF HEARING

**09-07-06**

DEPT. NO.

**Jail**

JUDGE

**Matias Contreras**

CLERK

**Carla Reyes**

REPORTER

**Leslie Brock**

PROBATION NO. OR PROBATION OFFICER

COUNSEL FOR PEOPLE

**Ben Salorio**

COUNSEL FOR DEFENDANT

**Javier Garibay**☒ APPTD.

1. Defendant was convicted of the commission of the following felony:

CNT.	CODE	SECTION NUMBER	CRIME	YEAR CRIME COMMITTED	DATE OF CONVICTION (MO./DATE/YEAR)	CONVICTED BY	TERM (L, M, U)	TIME IMPOSED
1	PC	12021(A)(1)	Felon in Possession of Firearm	2006	09-07-06	JURY COURT PLEA	L	2 0

2. ENHANCEMENTS charged and found to be true TIED TO SPECIFIC COUNTS (mainly in the PC 12022 series). List each count enhancement horizontally. Enter time imposed for each or "S" for stayed. DO NOT LIST ANY STRICKEN ENHANCEMENT(S).

CNT.	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	TOTAL

3. ENHANCEMENTS charged and found to be true FOR PRIOR CONVICTIONS OR PRISON TERMS (mainly in the PC 667 series). List all enhancements horizontally. Enter time imposed for each or "S" for stayed. DO NOT LIST ANY STRICKEN ENHANCEMENT(S).

ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	TOTAL

4. ☐ Defendant was sentenced pursuant to PC 667 (b)-(i) or PC 1170.12 (two-strikes).

5. FINANCIAL OBLIGATIONS (including any applicable penalty assessments):

Restitution Fine(s): **\$200.00** per PC 1202.4(b) forthwith per PC 2085.5; **\$200.00** per PC 1202.45 suspended unless parole is revoked.

Restitution per PC 1202.4(f): ☐ \$\_\_\_\_ / ☐ Amount to be determined to ☐ victim(s)\* ☐ Restitution Fund  
(\*List victim name(s) if known and amount breakdown in item 7 below.)

Fine(s): \$\_\_\_\_ per PC 1202.5. \$\_\_\_\_ per VC 23550 or \_\_\_\_ days ☐ county jail ☐ prison in lieu of fine ☐ CC ☐ CS

Lab Fee: \$\_\_\_\_ per HS 11372.5(a) for counts \_\_\_\_ ☐ Drug Program Fee of \$150 per HS 11372.7(a).

6. TESTING: a. ☐ AIDS pursuant to PC 1202.1 b. ☒ DNA pursuant to PC 296 c. ☐ other (specify):

7. Other orders (specify): **Sentencing report to be forwarded at a later date.**

8. TOTAL TIME IMPOSED EXCLUDING COUNTY JAIL TERM:

2 0

9. ☐ This sentence is to run concurrent with (specify):

10. Execution of sentence imposed

a. ☒ at initial sentencing hearing.

b. ☐ at resentencing per decision on appeal.

c. ☐ after revocation of probation.

d. ☐ at resentencing per recall of commitment. (PC 1170(d).)

e. ☐ other (specify):

11. DATE SENTENCE PRONOUNCED <b>09-07-06</b>	CREDIT FOR TIME SPENT IN CUSTODY	TOTAL DAYS: <b>24</b> INCLUDING:	ACTUAL LOCAL TIME <b>16</b>	LOCAL CONDUCT CREDITS <b>8</b>	<input checked="" type="checkbox"/> 4019 <input type="checkbox"/> 2933.1	TIME SERVED IN STATE INSTITUTION: <b>DMH CDC CRC</b>
---	----------------------------------	-------------------------------------	-----------------------------	--------------------------------	---	--

12. The defendant is remanded to the custody of the sheriff ☒ forthwith ☐ after 48 hours excluding Saturdays, Sundays, and holidays.

To be delivered to ☐ the reception center designated by the director of the California Department of Corrections.

☒ other (specify): **RJ Donovan**

CLERK OF THE COURT: I hereby certify the foregoing to be a correct abstract of the judgment made in this action.

DEPUTY'S SIGNATURE

**Carla Reyes**

DATE

**09-07-06**

This form is prescribed under PC 1218.5 to satisfy the requirements of PC 1213 for determinate sentences. Attachments may be used but must be referred to in this document.

12. Other than direct appeal, have you filed any other petitions, applications, or motions with respect to this conviction, commitment, or issue in any court? ☐ Yes. If yes, continue with number 13. ☒ No. If no, skip to number 15.

13. a. (1) Name of court: N/A
- (2) Nature of proceeding (for example, "habeas corpus petition"): N/A
- (3) Issues raised: (a) N/A
- (b) N/A
- (4) Result (Attach order or explain why unavailable): N/A
- (5) Date of decision: N/A
- b. (1) Name of court: N/A
- (2) Nature of proceeding: N/A
- (3) Issues raised: (a) N/A
- (b) N/A
- (4) Result (Attach order or explain why unavailable): N/A
- (5) Date of decision: N/A

c. For additional prior petitions, applications, or motions, provide the same information on a separate page.

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result:

N/A

N/A

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.)

PETITIONER HAD NO ACCESS TO JAIL'S NOR PRISON'S LAW LIBRARIES TO RESEARCH. ALSO HAD DELAYS IN OBTAINING COURT DOCUMENTS, SUCH AS THE MINUTE ORDER. NO TRANSCRIPTS ARE AVAILABLE.

16. Are you presently represented by counsel? ☐ Yes. ☒ No. If yes, state the attorney's name and address, if known:

\_\_\_\_\_

\_\_\_\_\_

17. Do you have any petition, appeal, or other matter pending in any court? ☐ Yes. ☒ No. If yes, explain:

\_\_\_\_\_

\_\_\_\_\_

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:

THERE IS NO OTHER ADEQUATE REMEDY AT LAW TO PRESENT PETITIONER'S CLAIMS EXCEPT FOR THIS PETITION. THIS COURT HAS PROPER JURISDICTION.

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: 4/25/07

► Andre Byrd  
(SIGNATURE OF PETITIONER)

**CIM - MSF  
PROOF OF SERVICE BY MAIL**

(C.C.P. §1013a; §2015.5; Fed.R.Civ.P. 5; 28 U.S.C. 1746)

I am over the age of eighteen years, a citizen of the United States, a resident of the State of California, (A) and and not a party to the within action. My mailing address is: CALIFORNIA INSTITUTION FOR MEN, P.O. BOX 500, CHINO, CA 91708.

On the following date: (B) April 25, 2007, I served the following document(s): (C)

PETITION FOR WRIT OF HABEAS CORPUS; ATTACHED EXHIBITS &  
DECLARATION.

On the interested parties in this action by placing true copies thereof, enclosed in sealed envelopes, addressed as follows to the following parties: (D)

<u>Superior Court</u>	<u>DISTRICT ATTY'S OFFICE</u>	<u>ATTY. GENERAL'S OFFICE</u>
<u>Title Clerk's Office</u>	<u>939 W. MAIN STREET</u>	<u>P.O. BOX 94455</u>
<u>939 W. MAIN ST.</u>	<u>EL CENTRO, CA 92243-2842</u>	<u>SACRAMENTO, CA 94244-2550</u>
<u>EL CENTRO, CA 92243-2842</u>		

I am readily familiar with the normal business practices for collection and processing of correspondence and other materials for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, in a sealed envelope with postage fully prepaid, it is deposited in a box so provided at the correctional institution in which I am presently confined.

I certify (or declare) under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(F) Name: BENJAMIN EDWARDS CDCR#: F39925

Signed: Benjamin Edwards Dated: April 25, 2007

**CIM MAILROOM ACKNOWLEDGEMENT OF MAILING**

DATED: \_\_\_\_\_ STAFF: \_\_\_\_\_

SIGNED: \_\_\_\_\_

8. Did you appeal from the conviction, sentence, or commitment? ☐ Yes. ☒ No. If yes, give the following information:

a. Name of court ("Court of Appeal" or "Appellate Dept. of Superior Court"):

N/A

b. Result: N/A c. Date of decision: \_\_\_\_\_

d. Case number or citation of opinion, if known: N/A

e. Issues raised: (1) N/A

(2) N/A

(3) N/A

f. Were you represented by counsel on appeal? ☐ Yes. ☒ No. If yes, state the attorney's name and address, if known:

9. Did you seek review in the California Supreme Court? ☐ Yes. ☒ No. If yes, give the following information:

a. Result: N/A b. Date of decision: N/A

c. Case number or citation of opinion, if known: \_\_\_\_\_

d. Issues raised: (1) N/A

(2) N/A

(3) N/A

10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal:

NO APPEAL WAS TAKEN.

11. Administrative Review:

a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Muszalski* (1975) 52 Cal.App.3d 500 [125 Cal.Rptr. 286].) Explain what administrative review you sought or explain why you did not seek such review:

N/A

b. Did you seek the highest level of administrative review available? ☐ Yes. ☒ No. N/A

Attach documents that show you have exhausted your administrative remedies.



865578-11010 STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA vs. AN L. BRAZZIL Defendant.

Case No. 572

Date 8-25-20

Judge Contreras

NOTICE, SENTENCE, COMMITMENT FORM

DOB \_\_\_\_\_

SS# \_\_\_\_\_

NEXT COURT APPEARANCE DATE 8/31/21 DEPT. C CHARGES P/2021(C)(1)

FOR:

- ☐ Readiness Hearing
- ☐ Enroll/Review/completion
- ☐ Alcohol Program (Care)
- ☐ Entry of plea.
- ☐ Bail/O.R. Review.
- ☒ Pretrial conference.
- ☐ Diversion Hearing.
- ☒ Preliminary Examination.
- ☐ Report to \_\_\_\_\_ at address on reverse side on or before \_\_\_\_\_
- ☐ Arrangement for Payment of Attorney Fees.
- ☐ Payment Review.
- ☐ Jury Trial.
- ☐ Court Trial.
- ☐ Probation Sentencing.
- ☐ Guilty by plea/verdict.
- ☐ Continued arraignment.
- ☐ Interpreter Required.
- ☐ C.C.P. 170.6 Judge \_\_\_\_\_
- ☐ Case dismissed.
- ☐ To employ own attorney.
- ☐ Defense atty. 2048 & 4510
- ☐ Vacate.
- ☒ For Interview.

CUSTODIAL STATUS BEFORE SENTENCE:

- ☒ Remanded to custody of Sheriff until next appearance.
- ☐ Remain at liberty on bail.
- ☐ Released on own recognizance.
- ☐ Defendant ordered discharged.

SENTENCE AND CUSTODIAL STATUS

- ☐ Fine: pay fine of \$ \_\_\_\_\_ including penalty assessment, less \$ \_\_\_\_\_ for time served, or spend one day in jail for each \$ \_\_\_\_\_ of fine unpaid by due date of \_\_\_\_\_
- ☐ Jail: Serve \_\_\_\_\_ days in jail, with credit for time served pursuant to P.C. 2900.5
- ☐ Sentence to be served consecutively with \_\_\_\_\_
- ☐ Stay of execution granted until \_\_\_\_\_ at \_\_\_\_\_ and defendant ordered to surrender to Sheriff at that time.
- ☐ Probation granted/ other.
- ☐ appear in Court on due date at \_\_\_\_\_ M, if fine remains unpaid.
- ☐ Pay fine of \$ \_\_\_\_\_ to Clerk of Court at address on reverse side.
- ☐ Default in payment of any installment accelerates due date for entire fine to date of default.
- ☐ O.R. Officer directed to interview defendant & submit written/ oral report to Judge \_\_\_\_\_ By \_\_\_\_\_
- To be paid ☐ By \_\_\_\_\_
- ☐ In installments at the rate of \$ \_\_\_\_\_ on \_\_\_\_\_ of each week.

I certify the foregoing is a true copy of the judgment rendered on the above date by the above named Judge.

JOSE O. GUILLEN, CLERK OF THE ABOVE NAME COURT

BY \_\_\_\_\_ Deputy

TO THE SHERIFF:

The foregoing certified copy of judgment in the above entitled action is your authority for the execution thereof. DEFENDANT, BEING RELEASED ON HIS OWN RECOGNIZANCE, AGREES THAT: (a) Defendant acknowledges that if he or she is charged with a misdemeanor & willfully fails to appear as required, after being released on his or her own recognizance, in order to evade the process of the Court, is guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 6 months or a \$1,000 fine or both. (b) If he fails to so appear, and is apprehended outside the State of California, he waives extradition. (c) Any Court or magistrate of competent jurisdiction may revoke the order of release and either return him to custody or require that he give bail or other assurance of his appearance as provided in part 2, title 10, chapter 1 of Penal Code.

Witnessed by \_\_\_\_\_ Executed on \_\_\_\_\_ By \_\_\_\_\_ Defendant

DISTRIBUTION: D.A. P.D./DEFENSE ATTORNEY JAIL PROBATION DEFENDANT REPORTER O.R. OFFICER

865537-22875

**IMPERIAL COUNTY SUPERIOR COURT** Jail **DEPARTMENT**  
**STATE OF CALIFORNIA**

Case No. JCF-12572

THE PEOPLE OF THE STATE OF CALIFORNIA  
 VS.

Interpreter NoneDate: 9/07/06Andres Lewis Prietz

Defendant

Reporter L. BrockJudge M. ContrerasDOB: 1/18/70**COMMITMENT, CERTIFICATION****APPEARANCES**Defendant and attorney / P.D. Garibay, J. Deputy Dist. Attorney SACOMO, R.**PRELIMINARY EXAMINATION HELD**

- ☐ Preliminary examination was held on the above date and it appearing to the above named Judge that a felony violation of \_\_\_\_\_ has been committed and that there is sufficient cause to believe the above named defendant GUILTY thereof, it is ordered that he be held to answer the same.

**PLEA OF GUILTY**

- CMP ☒ The above named defendant, being charged in a complaint on file in this Court under the above case number, and having entered a plea of GUILTY to a felony violation of 11. Felony in possession of a dangerous weapon, it is ordered that this case together with a copy of all proceedings held herein is certified to the Superior Court for this County.

DATE: 9/7/06JUDGE: 9/11/06 C.E.**PRELIMINARY EXAMINATION WAIVED**

- ☐ The above named defendant, being charged in a complaint on file in this Court under the above case number, and having waived preliminary examination on the charges, the Court and the District Attorney consenting thereto, it is ordered that he be held to answer the same.

**CUSTODIAL STATUS**

- CMP ☒ Defendant committed to Custody of Sheriff. Probation Admit to bail of \$ \_\_\_\_\_
- ☐ Defendant released on his own recognizance. SP LF 2100 ☐ Defendant to remain free on bail.
- FURTHER PROCEEDINGS** ITS 24 days ☐ Defendant ordered discharged.

- ☐ Defendant ordered to report to Probation Department at address on reverse side within one Court day.

- ☒ Defendant ordered to appear in Superior Court on 10/19/06

I certify the foregoing is a true copy of the judgment rendered on the above date by the above named Judge.

JOSE O. GUILLEN, CLERK OF THE ABOVE NAMED COURT. BY [Signature], Deputy.

**TO THE SHERIFF:** The foregoing certified copy of judgment in the above-entitled action is your authority for the execution thereof. DEFENDANT, BEING RELEASED ON HIS OWN RECOGNIZANCE, AGREES THAT: (a) He/she will appear at all times and places as ordered by the Court or magistrate releasing him/her and as ordered by any Court in which, or any magistrate before whom, the charge is subsequently pending. (b) If he/she fails to so appear and is apprehended outside the State of California, she/he waives extradition. (c) Any Court or magistrate of competent jurisdiction may revoke the order of release and either return him/her to custody or require that he/she give bail or other assurance of his/her appearance as provided in part 2, title 10, chapter 1 of the Penal Code. (d) The acknowledgment of the defendant that he/she has been informed of the consequences and penalties applicable to violation of the conditions of release.

Witnessed by \_\_\_\_\_ Executed on \_\_\_\_\_ By \_\_\_\_\_, Defendant

DISTRIBUTION: D.A. P.D./DEFENSE ATTORNEY JAIL PROBATION DEFENDANT SUPERIOR COURT



hp officejet 4200 series 4215xi  
Printer/Fax/Copier/Scanner

Personal

Log for  
LILIANA SALDANA  
7603525537  
12/18/2007 8:39PM

---

Last Transaction

Date	Time	Type	Identification	Duration	Pages	Result
12/18	08:38p	Received		0:38	0	No fax

---

hp officejet 4200 series 4215xi  
Printer/Fax/Copier/Scanner

Personal

Log for  
LILIANA SALDANA  
7603525537  
12/18/2007 5:56PM

---

Last Transaction

Date	Time	Type	Identification	Duration	Pages	Result
12/18	05:55p	Received		0:38	0	No fax

---

COURT OF APPEAL - STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

**FILED**

SEP 28 2007

SUPERIOR COURT  
IMPERIAL COUNTY CA  
JUDGE G. HERNANDEZ, CLERK  
BY [Signature] DEPUTY

**FILED**  
Stephen M. Kelly, Clerk

**D**

G. HERNANDEZ

SEP 26 2007

Court of Appeal Fourth District

In re ANDRE BRAZZIL on Habeas Corpus  
D051675  
Imperial County No. EHC00865

THE COURT:

The denial of a petition for writ of habeas corpus is not appealable. The appeal is  
DISMISSED.

*[Signature]*  
Presiding Justice

cc: All Parties

**AFFIDAVIT OF TRANSMITTAL**

I am a citizen of the United States, over 18 years of age, and not a party to the within action; that my business address is 750 B Street, Suite 300, San Diego, CA 92101; that I served a copy of the attached material in envelopes addressed to those persons noted below.

That said envelopes were sealed and shipping fees fully paid thereon, and thereafter were sent as indicated via the U.S. Postal System from San Diego, CA 92101.

I certify under penalty of perjury that the foregoing is true and correct.

Stephen M. Kelly, Clerk of the Court

Rita Rodriguez  
Deputy Clerk

9-26-07  
Date

CASE NUMBER: D051675

Office of the Clerk  
Imperial County Superior Court - Main  
939 West Main Street  
El Centro, CA 92243

Material Sent YES: ☒

Office of the Attorney General  
P. O. Box 85266  
San Diego, CA 92186-5266

Material Sent YES: ☒

Andre Brazzil  
DOB:10/21/1969  
354 Calvry Drive  
El Centro, CA 92243

Material Sent YES: ☒

COURT OF APPEAL - STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION ONE

Imperial County Superior Court - Main  
939 West Main Street  
El Centro, CA 92243

RE: In re ANDRE BRAZZIL on Habeas Corpus  
D051675  
Imperial County No. EHC00865

**\* \* \* REMITTITUR \* \* \***

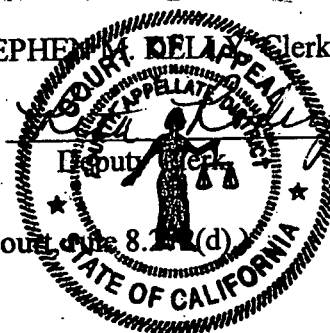
I, Stephen M. Kelly, Clerk of the Court of Appeal of the State of California, for the Fourth Appellate District, certify the attached is a true and correct copy of the original opinion or decision entered in the above-entitled case on September 26, 2007, and that this opinion or decision has now become final.

☐ Appellant ☐ Respondent to recover costs.  
☐ Each party to bear own costs.  
☒ Costs are not awarded in this proceeding.

Witness my hand and the seal of the Court affixed this **NOV 26 2007**

STEPHEN M. KELLY, Clerk

By: 



cc: All Parties (Copy of remittitur only, Cal. Rules of Court rule 8.122(d))

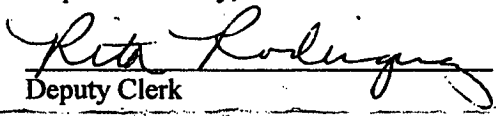
**AFFIDAVIT OF TRANSMITTAL**

I am a citizen of the United States, over 18 years of age, and not a party to the within action; that my business address is 750 B Street, Suite 300, San Diego, CA 92101; that I served a copy of the attached material in envelopes addressed to those persons noted below.

That said envelopes were sealed and shipping fees fully paid thereon, and thereafter were sent as indicated via the U.S. Postal System from San Diego, CA 92101.

I certify under penalty of perjury that the foregoing is true and correct.

Stephen M. Kelly, Clerk of the Court

  
Deputy Clerk

**NOV 26 2007**

Date

CASE NUMBER: D051675

Office of the Clerk  
Imperial County Superior Court - Main  
939 West Main Street  
El Centro, CA 92243

Material Sent YES: ☒

Office of the Attorney General  
P. O. Box 85266  
San Diego, CA 92186-5266

Material Sent YES: ☒

Andre Brazzil  
DOB:10/21/1969  
354 Calvry Drive  
El Centro, CA 92243

Material Sent YES: ☒

Appellate Defenders, Inc.  
555 West Beech St., Suite 300  
San Diego, CA 92101-2936

(619) 696-0284

Material Sent YES: ☒

Office of the District Attorney  
Appellate Division  
330 West Broadway, Suite 920  
San Diego, CA 92101

Material Sent YES: ☐

District Attorney  
940 Main Street, Suite 102  
El Centro, CA 92243

Material Sent YES: ☒

Department of Corrections and Rehabilitation  
P.O. Box 942883  
Sacramento, CA 94283-0001

Material Sent YES: ☒

Youth Authority  
4241 Williamsborough Dr.  
Sacramento, CA 95822

Material Sent YES: ☐



**ABSTRACT OF JUDGMENT – PRISON COMMITMENT – DETERMINATE  
SINGLE, CONCURRENT, OR FULL-TERM CONSECUTIVE COUNT FORM**  
*[Not to be used for multiple count convictions or for 1/3 consecutive sentences]*

CR-290.1

SUPERIOR COURT OF CALIFORNIA, COUNTY OF: <b>Imperial</b>		<div style="border: 2px solid black; padding: 5px; display: inline-block; font-weight: bold; font-size: 1.2em;">FILED</div> <div style="text-align: center; margin-top: 10px;"> <b>SEP 07 2006</b>  <small>SUPERIOR COURT IMPERIAL COUNTY, CA. JOSE G. GILLEN, CLERK BY: <i>[Signature]</i> DEPUTY</small> </div>	
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: <b>Andre Lewis Brazzil</b>  AKA: CII#: <b>A08638491</b> BOOKING #: <b>865577</b>		DOB: <b>06-18-70</b>  <input type="checkbox"/> NOT PRESENT	
COMMITMENT TO STATE PRISON ABSTRACT OF JUDGMENT		<input type="checkbox"/> AMENDED ABSTRACT	
DATE OF HEARING: <b>09-07-06</b>		DEPT. NO.: <b>Jail</b>	
CLERK: <b>Carla Reyes</b>		JUDGE: <b>Matias Contreras</b>	
COUNSEL FOR PEOPLE: <b>Ben Salorio</b>		PROBATION NO. OR PROBATION OFFICER:	
		COUNSEL FOR DEFENDANT: <b>Javier Garibay</b> <span style="float: right;"><input checked="" type="checkbox"/> APPTD.</span>	

1. Defendant was convicted of the commission of the following felony:

CNT.	CODE	SECTION NUMBER	CRIME	YEAR CRIME COMMITTED	DATE OF CONVICTION (MO/DATE/YEAR)	CONVICTED BY			TERM (L, M, U)	TIME IMPOSED	
						JURY	COURT	PLEA		YRS.	MOS.
1	PC	12021(A)(1)	Felon in Possession of Firearm	2006	09-07-06			X	L	2	0

2. ENHANCEMENTS charged and found to be true TIED TO SPECIFIC COUNTS (mainly in the PC 12022 series). List each count enhancement horizontally. Enter time imposed for each or "S" for stayed. DO NOT LIST ANY STRICKEN ENHANCEMENT(S).

CNT.	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	TOTAL

3. ENHANCEMENTS charged and found to be true FOR PRIOR CONVICTIONS OR PRISON TERMS (mainly in the PC 667 series). List all enhancements horizontally. Enter time imposed for each or "S" for stayed. DO NOT LIST ANY STRICKEN ENHANCEMENT(S).

ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	TOTAL

4. ☐ Defendant was sentenced pursuant to PC 667 (b)-(i) or PC 1170.12 (two-strikes).

5. FINANCIAL OBLIGATIONS (including any applicable penalty assessments):

 Restitution Fine(s): **\$200.00** per PC 1202.4(b) forthwith per PC 2085.5; **\$200.00** per PC 1202.45 suspended unless parole is revoked.

 Restitution per PC 1202.4(f): ☐ \$\_\_\_\_ / ☐ Amount to be determined to ☐ victim(s)\* ☐ Restitution Fund  
 (\*List victim name(s) if known and amount breakdown in item 7 below.)

 Fine(s): \$\_\_\_\_ per PC 1202.5. \$\_\_\_\_ per VC 23550 or \_\_\_\_ days ☐ county jail ☐ prison in lieu of fine ☐ CC ☐ CS

 Lab Fee: \$\_\_\_\_ per HS 11372.5(a) for counts \_\_\_\_ ☐ Drug Program Fee of \$150 per HS 11372.7(a).
6. TESTING: a. ☐ AIDS pursuant to PC 1202.1 b. ☒ DNA pursuant to PC 296 c. ☐ other (specify):7. Other orders (specify): **Sentencing report to be forwarded at a later date.**

8. TOTAL TIME IMPOSED EXCLUDING COUNTY JAIL TERM:

2 0

9. ☐ This sentence is to run concurrent with (specify):

10. Execution of sentence imposed

a. ☒ at initial sentencing hearing.b. ☐ at resentencing per decision on appeal.c. ☐ after revocation of probation.d. ☐ at resentencing per recall of commitment. (PC 1170(d).)e. ☐ other (specify):

11. DATE SENTENCE PRONOUNCED <b>09-07-06</b>	CREDIT FOR TIME SPENT IN CUSTODY	TOTAL DAYS: <b>24</b>	ACTUAL LOCAL TIME <b>16</b>	LOCAL CONDUCT CREDITS <b>8</b>	<input checked="" type="checkbox"/> 4019 <input type="checkbox"/> 2933.1	TIME SERVED IN STATE INSTITUTION:
---	----------------------------------	-----------------------	-----------------------------	--------------------------------	---	-----------------------------------

 12. The defendant is remanded to the custody of the sheriff ☒ forthwith ☐ after 48 hours excluding Saturdays, Sundays, and holidays.  
 To be delivered to ☐ the reception center designated by the director of the California Department of Corrections.

☒ other (specify): **RJ Donovan**

CLERK OF THE COURT: I hereby certify the foregoing to be a correct abstract of the judgment made in this action.

DEPUTY'S SIGNATURE <b>Carla Reyes</b> <i>[Signature]</i>	DATE <b>09-07-06</b>
---	-------------------------

This form is prescribed under PC 1213.5 to satisfy the requirements of PC 1213 for determinate sentences. Attachments may be used but must be referred to in this document.

# **ABSTRACT OF JUDGMENT - PRISON COMMITMENT - DETERMINATE SINGLE, CONCURRENT, OR FULL-TERM CONSECUTIVE COUNT FORM**

*[Not to be used for multiple count convictions or for 1/3 consecutive sentences]*

CR-290.1

SUPERIOR COURT OF CALIFORNIA, COUNTY OF: <b>IMPERIAL</b>		<div align="center"> <b>FILED</b>          JUL 03 2007          SUPERIOR COURT          IMPERIAL COUNTY CA          JOSE O. BULLEN, CLERK          BY <i>[Signature]</i> DEPUTY       </div>			
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: <b>ANDRE LEWIS BRAZZIL</b>				DOB: <b>06-18-70</b>	CASE NUMBER <b>JCF18572</b>
AKA: CII#: <b>A08638491</b> BOOKING #: <b>865577</b>				<input type="checkbox"/> NOT PRESENT	
COMMITMENT TO STATE PRISON ABSTRACT OF JUDGMENT				<input checked="" type="checkbox"/> AMENDED ABSTRACT	
DATE OF HEARING <b>09-07-06</b>	DEPT. NO. <b>JAIL</b>	JUDGE <b>MATIAS R. CONTRERAS</b>			
CLERK <b>CARLA REYES</b>	REPORTER <b>LESLIE BROCK</b>	PROBATION NO. OR PROBATION OFFICER <b>MARIA HILL</b>			
COUNSEL FOR PEOPLE <b>BENJAMIN SALORIO</b>		COUNSEL FOR DEFENDANT <b>JAVIER GARIBAY</b> <input checked="" type="checkbox"/> APPTD.			

1. Defendant was convicted of the commission of the following felony:

CRIME				COMMITTED	(MO./DATE/YEAR)	JURY	CO.	PL	TR.	(L.	YRS.	MOS.
CNT.	CODE	SECTION NUMBER										
1	PC	12021(A)(1)	FELON IN POSSESSION OF FIREARM	2006	09-07-06			X	M		2	0

2. ENHANCEMENTS charged and found to be true TIED TO SPECIFIC COUNTS (mainly in the PC 12022 series). List each count enhancement horizontally. Enter time imposed for each or "S" for stayed. DO NOT LIST ANY STRICKEN ENHANCEMENT(S).

CNT.	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	TOTAL

3. ENHANCEMENTS charged and found to be true FOR PRIOR CONVICTIONS OR PRISON TERMS (mainly in the PC 667 series). List all enhancements horizontally. Enter time imposed for each or "S" for stayed. DO NOT LIST ANY STRICKEN ENHANCEMENT(S).

ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	TOTAL

4. ☐ Defendant was sentenced pursuant to PC 667 (b)-(i) or PC 1170.12 (two-strikes).

5. FINANCIAL OBLIGATIONS (including any applicable penalty assessments):

Restitution Fine(s): **\$200.00** per PC 1202.4(b) forthwith per PC 2085.5; **\$200.00** per PC 1202.45 suspended unless parole is revoked.Restitution per PC 1202.4(f): ☐ \$\_\_\_\_ / ☐ Amount to be determined to ☐ victim(s) ☐ Restitution Fund

(\*List victim name(s) if known and amount breakdown in item 7 below)

Fine(s): \$\_\_\_\_ per PC 1202.5. \$\_\_\_\_ per VC 23550 or \_\_\_\_ days ☐ county jail ☐ prison in lieu of fine ☐ CC ☐ CSLab Fee: \$\_\_\_\_ per HS 11372.5(a) for counts ☐ Drug Program Fee of \$150 per HS 11372.7(a).5. TESTING: a. ☐ AIDS pursuant to PC 1202.1 b. ☒ DNA pursuant to PC 296 c. ☐ other (specify):

7. Other orders (specify):

*MIT gave me too much time*

8. TOTAL TIME IMPOSED EXCLUDING COUNTY JAIL TERM: **2** **0**9. ☐ This sentence is to run concurrent with (specify):

10. Execution of sentence imposed

a. ☒ at initial sentencing hearing.b. ☐ at resentencing per decision on appeal.c. ☐ after revocation of probation.d. ☐ at resentencing per recall of commitment. (PC 1170(d).)e. ☐ other (specify):

11. DATE SENTENCE PRONOUNCED <b>09-07-06</b>	CREDIT FOR TIME SPENT IN CUSTODY	TOTAL DAYS: <b>24</b>	ACTUAL LOCAL TIME <b>16</b>	LOCAL CONDUCT <input checked="" type="checkbox"/> 4019 <input type="checkbox"/> 2933.1	TIME SERVED IN STATE INSTITUTION: <b>DMH</b> <b>CDC</b> <b>CRC</b>
---	----------------------------------	-----------------------	-----------------------------	--	--

12. The defendant is remanded to the custody of the sheriff ☐ forthwith ☒ after 48 hours excluding Saturdays, Sundays, and holidays. To be delivered to ☐ the reception center designated by the Director of the California Department of Corrections.

*R.J. DONOVAN*

CLERK OF THE COURT: I hereby certify the foregoing to be a correct abstract of the judgment rendered in this action.

DEPUTY'S SIGNATURE **ARTHUR G. TAFFOLLA** **07-03-07**

This form is prescribed under PC 1213.5 to satisfy the requirements of PC 1213 for verification of judgments. Attachments may be used but must be referred to in this document.



Name Andre BRAZZIL  
CIM-MSF, SD-110u  
Address P.O. Box 500  
CHINO, CALIFORNIA 91708-0500

**FILED**

MAY 09 2007

SUPERIOR COURT  
IMPERIAL COUNTY CA.  
JOSE O. GUILLEN, CLERK  
BY C. [Signature] DEPUTY

CDC or ID Number

F-39583

U.S. FEDERAL COURT OF THE STATE CALIFORNIA  
IN AND FOR THE ~~STATE~~ CITY OF SAN DIEGO  
(Court)

## PETITION FOR WRIT OF HABEAS CORPUS

ANDRE BRAZZIL

Petitioner

vs.

PEOPLE OF THE STATE OF CALIFORNIA

Respondent

REAL PARTY IN INTEREST

No.

EHC 00865

(To be supplied by the Clerk of the Court)

## INSTRUCTIONS — READ CAREFULLY

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.
- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies of the petition and, if separately bound, one copy of any supporting documents.
- If you are filing this petition in the California Supreme Court, file the original and ten copies of the petition and, if separately bound, two copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

Approved by the Judicial Council of California for use under Rule 60 of the California Rules of Court [as amended effective January 1, 2005]. Subsequent amendments to Rule 60 may change the number of copies to be furnished the Supreme Court and Court of Appeal.

JS44

(Rev. 07/89)

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

## I (a) PLAINTIFFS

Andre Brazzil

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF San Bernardino  
(EXCEPT IN U.S. PLAINTIFF CASES)

2254 ~~REPENDA~~ 1993  
FILING FEE PAID  
Yes ☒ No ☐  
MOTION FILED  
Yes ☒ No ☐  
COPIES SENT TO  
Court ☒ Prosec ☐  
ATTORNEYS (IF KNOWN)

2007 DEC 27 PM 4:04

People of the State of California  
CLERK US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY R.M. DEPUTY

NOTE: IN Eminent Domain Cases, USE THE LOCATION OF THE TRACT OF LAND

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Andre Brazzil  
PO Box 500  
Chino, CA 91708  
F-39583

07 CV 2421 BTM NLS

## II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question  
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- |   | PT                         | DEF                        |   | PT                         | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

28 U.S.C. 2254

## V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reappointment
<input type="checkbox"/> Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury-Medical Malpractice	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 640 RR & Truck	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<b>PERSONAL PROPERTY</b>	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 660 Occupational Safety/Health	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 861 HIA (13958)	<input type="checkbox"/> 850 Securities/Commodities Exchange
<input type="checkbox"/> 160 Stockholders Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<b>LABOR</b>	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 875 Customer Challenge 12 USC
<input type="checkbox"/> Other Contract	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 892 Economic Stabilization Act
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>PRISONER PETITIONS</b>	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus	<input type="checkbox"/> 740 Railway Labor Act	<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input checked="" type="checkbox"/> 530 General	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 240 Tort to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 540 Mandamus & Other			<input type="checkbox"/> 950 Constitutionality of State
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 550 Civil Rights			<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 290 All Other Real Property					

## VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☐ NO

## VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE

Docket Number

DATE December 27, 2007

SIGNATURE OF ATTORNEY OF RECORD

R. M. Mulech